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Library theft may be increasing, but schools should consider all the implications before invoking library theft and search and seizure procedures. It may be the wisest course not to invoke the law or to post the law and not enforce it. The County Attorney should be consulted before a decision is made.

Revised from:
Growth Notes for
School Media Specialists
Instruction & Curriculum
Division
Iowa Department of Public
Instruction
1986

DPI QUICK NOTE



#9

TO INVOKE

OR

NOT TO INVOKE

THE LAW

IOWA DEPARTMENT
OF
PUBLIC INSTRUCTION
1986

DPI QUICK NOTE 9

TO INVOKE OR NOT TO
INVOKE THE LAW

The current library theft law [714.5, 808.12, 702.22 Code of Iowa 1985 as further amended] makes stealing or retaining library materials or equipment for over "two months or more after [due date]" for material; "one month or more after [due date]" for equipment a crime. The law [714.5] further states that "the owner of borrowed library equipment may request assistance of a dispute resolution center, mediation center or appropriate law enforcement agency in recovering the equipment from the borrower" after it has been overdue at least three days. The school's first contact would be with the County Attorney's Office. That office would advise on the appropriate procedure.

According to the law [714.5], deposits may be required from borrowers of equipment and must be required for equipment or materials having a value of \$500 or more. In the latter instance a signed agreement

should state the due date and penalty for failure to return. The deposit must be returned in full if equipment or materials are returned on time and undamaged.

A monetary settlement can be made in case of lost library materials and equipment, and graduated late penalties up to 25% of the value can be charged for equipment.

The crime of theft has five possible degrees. A fifth degree theft [up to \$50] is a simple misdemeanor. A fourth degree theft [\$51-\$100] is a serious misdemeanor. A third degree theft [\$101-\$500] is an aggravated misdemeanor. Second and first degree thefts are felonies. They are more complex and probably would not often relate to school library media center thefts [section 714.2]. Generally a conviction on a simple misdemeanor charge would be in the 30 days or \$100 bracket. Any fines or costs coming out of a suit in criminal court would go to the court, not to the library or the school district. In order for the school to receive any payments through the courts, it would be necessary to take a student to small claims court.

Because of all of these problems, schools may choose not to invoke the law.

Section 714.5 says that: Notices stating the provision of this section and of section 808.12 with regard to library materials or equipment shall be posted in clear public view in all public libraries, in all libraries of educational, historical or charitable institutions, organizations or societies, in all museums and in all repositories of public records.

While this seems to require posting the law, the non-legal consensus appears to be that a library need not post the law but that if the law is not posted prosecution would probably not be successful.

The law also gives some permission to search a person if a law officer is present or if the person consents. Model Policy and Rules for Search and Seizure in the Schools, a DPI publication, recommends a Board Policy on search and seizure and provides a sample document. Copies are available from Kathy Collins, Department of